



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 28] नई दिल्ली, शुक्रवार, अगस्त 10, 2001 / श्रावण 19, 1923

No. 28] NEW DELHI, FRIDAY, AUGUST 10, 2001 / SRAVANA 19, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bill was introduced on 10-8-2001.

BILL No. 68 OF 2001

*A Bill further to amend the Central Sales Tax Act, 1956.*

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Sales Tax (Amendment) Act, 2001.

Short title  
and com-  
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

74 of 1956.

2. In the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act), in section 13, in sub-section (1), after clause (g), the following clauses shall be inserted, namely:—

Amendment of  
section 13.

“(h) the proper functioning of the Authority constituted under section 19;

(i) the salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members under sub-section (3) of section 19;

(j) any other matter as may be prescribed.”

3. After Chapter V, of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of  
new Chapter  
after  
Chapter V.

## CHAPTER VI

AUTHORITY TO SETTLE DISPUTES IN COURSE OF INTER-STATE TRADE  
OR COMMERCECentral  
Sales Tax  
Appellate  
Authority.

19. (1) The Central Government shall constitute by notification in the Official Gazette, an Authority to settle inter-State disputes falling under section 6A or section 9 of this Act, to be known as "the Central Sales Tax Appellate Authority (hereinafter referred to as the Authority)".

(2) The Authority shall consist of the following Members appointed by the Central Government, namely:—

(a) a Chairman, who is a retired Judge of the Supreme Court, or a retired Chief Justice of a High Court;

(b) an officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India; and

(c) an officer of a State Government not below the rank of Secretary or an officer of the Central Government not below the rank of Additional Secretary, who is an expert in sales tax matters.

(3) The salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members shall be such as may be prescribed.

(4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.

Appeals.

20. (1) The provisions of this Chapter shall apply to appeals filed by the aggrieved dealer against any order of the assessing authority made under section 6A or section 9 of this Act.

(2) Notwithstanding anything contained in the general sales tax laws, the Authority shall adjudicate an appeal filed by a dealer aggrieved against any order of the assessing authority rejecting his claim under section 6A or section 9 of this Act.

(3) An appeal against the order of the assessing authority rejecting the claim of the dealer under section 6A or section 9 of this Act may be filed by the aggrieved dealer within forty-five days from the date on which the order is served on him:

Provided that the Authority may entertain any appeal after the expiry of the said period of forty-five days, but not later than sixty days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The application shall be made in quadruplicate and be accompanied by a fee of five thousand rupees.

Procedure  
on receipt  
of applica-  
tion.

21. (1) On receipt of an appeal, the Authority shall cause a copy thereof to be forwarded to the assessing authority concerned and to call upon it to furnish the relevant records:

Provided that such records shall, as soon as possible, be returned to the assessing authority.

(2) The Authority shall adjudicate and decide upon the appeal filed against an order of the assessing authority.

(3) The Authority, after examining the appeal and the records called for, by order, either allow or reject the appeal:

Provided that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative:

Provided further that whether an appeal is rejected or accepted, reasons for such rejection or acceptance shall be given in the order.

(4) The Authority shall make an endeavour to pronounce its order in writing within six months of the receipt of the appeal.

(5) A copy of every order made under sub-section (3) shall be sent to the appellant and to the assessing authority.

5 of 1908.

22. (1) The Authority shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

Powers of the Authority.

(a) enforcing the attendance of any person, examining him on oath or affirmation;

(b) compelling the production of accounts and documents;

(c) issuing commission for the examination of witnesses;

(d) the reception of evidence on affidavits;

(e) any other matter which may be prescribed.

45 of 1860.  
2 of 1974.

(2) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

23. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of powers under this Act.

Procedure of Authority.

43 of 1961.

24. (1) Notwithstanding anything contained in any other law for the time being in force and in section 19 of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be notified by the Central Government in the Official Gazette, with such modifications as may be necessary, to make its composition in conformity with section 19 of this Act, as the Authority under this Act till such time an Authority is constituted under that section.

Authority for Advance Rulings to function as Authority under this Act.

(2) On and from the date of the constitution of the Authority in accordance with the provisions of section 19 of this Act, the proceedings pending with the Authority for Advance Rulings shall stand transferred to the Authority constituted under that section from the stage at which such proceedings stood before the date of constitution of the said Authority.

25. On and from the date when the Authority is constituted under section 19, every appeal arising out of the provisions contained in this Chapter—

Transfer of pending proceedings.

(i) which is pending immediately before the constitution of such Authority before the appellate authority constituted under the general sales tax law of a State or of the Union territory, as the case may be; or

(ii) which would have been required to be taken before such appellate Authority,

shall stand transferred to such Authority on the date on which it is established.

26. An order passed by the Authority under this Chapter shall be binding on the assessing authorities and other authorities created by or under any law relating to general sales tax, in force for the time being in any State or Union territory.

Applicability of order passed.

## STATEMENT OF OBJECTS AND REASONS

Central Sales Tax (CST) is levied under the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the CST Act), wherever sale of goods takes place in the course of inter-State trade or commerce. CST is not payable when the movement of goods from one State to another is occasioned not by way of sale but by reason of transfer of such goods to any other place where the dealer carries on his business or to his agent or principal. Since CST is levied by the State from which the movement of goods commences, disputes have arisen many times between two States, as to whether or not the movement of goods in a particular case amounts to sale in the course of inter-State trade or commerce.

2. Presently, there is no mechanism within the Central Sales Tax Act, 1956 to resolve such disputes. Consequently, parties have to approach Courts for a decision. In *Ashok Leyland Ltd. Vs. Union of India & Others*, (1997) 9 Supreme Court Cases 10, the Supreme Court has observed that in the interest of inter-State trade and commerce, the suggestion for creation of a Central mechanism to decide such disputes—which are really in the nature of inter-State disputes—may be well worth considering as every dealer affected may not be in a position to approach this Court for appropriate directions. The Court further observed that it is for the Government of India to consider this aspect and take necessary decision in that behalf. Subsequently, in view of the several petitions filed in the Supreme Court, the Supreme Court has directed that a Central mechanism indicated by it in *Ashok Leyland* case may be established by the Central Government to resolve this "conundrum" created by the conflicting interpretations given by the State Sales Tax authorities.

3. In view of the aforesaid background, it is proposed to amend the CST Act by the proposed legislation so as to create a new authority on the lines of the Authority for Advance Rulings set up under Chapter XIX-B of the Income-tax Act, 1961 (43 of 1961), and assign the work of CST related cases to a Central Sales Tax Appellate Authority. Until such time as such Authority is constituted, it is considered expedient to assign the work relating to settling inter-State disputes under the CST Act to the Authority for Advance Rulings, which is in a position to take up additional work.

4. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 17th July, 2001.*

YASHWANT SINHA.

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**FINANCIAL MEMORANDUM**

The financial implications in implementing the Central Sales Tax (Amendment) Bill, 2001 are presently nil, as the Bill proposes to assign the work relating to settling inter-State disputes under the Central Sales Tax Act, 1956 to the Authority for Advance Rulings set up under Chapter XIX-B of the Income-tax Act, 1961 (43 of 1961), which has the capacity to take up additional work.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill makes provision for insertion of a new Chapter relating to the Authority to settle disputes in the course of inter-State trade or commerce. Sub-section (3) of section 19 of this Chapter empowers the Central Government to prescribe by rules the salary and allowances payable to and the terms and conditions of service of the Chairman and Members. Further, new section 24 empowers the Central Government to allot the work of "Central Sales Tax Appellate Authority" to the Authority for Advance Rulings till such time it is constituted by notification in the Official Gazette.

2. The matters in respect of which the said rules may be made are essentially matters of detail or procedure. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,  
*Secretary-General.*